

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 05-0324 MMC

Plaintiff,

v.

DENNIS CYRUS, JR.,

Defendant

**AMENDED\*  
ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT'S  
MOTION TO READ JURORS SCRIPT  
REGARDING TRIAL PROCEEDINGS  
(DEFENDANT'S TRIAL MOTION NO. 45)**

Before the Court is defendant Dennis Cyrus, Jr.'s "Motion to Read Jurors Script Regarding Trial Proceedings," filed August 31, 2008, to which the United States responded on October 6, 2008. Thereafter, on October 29, 2008, defendant filed proposed Revised Script, and, on October 30, 2008, the United States filed a Proposed Instructions for Juror Questionnaire.

Having read and considered the papers filed in support of and in response to the motion, the Court hereby GRANTS the motion to the extent the motion requests that the Court read a statement to the prospective jurors prior to their receipt of the Juror Questionnaire, and DENIES the motion to the extent the motion requests that the Court

\* The amendments reflect, as set forth on the record at the hearing conducted November 12, 2008, the Court's response to The Cyrus Defense's Objection to the Court's Juror Statement (Doc #1073).

1 read the Revised Script proposed by defendant. Rather, the Court, having read and  
2 considered the parties' respective proposals, declines to adopt either such proposal in its  
3 entirety, and instead will read the following statement to the prospective jurors in advance  
4 of their receiving the Juror Questionnaire:

5       You have been summoned here today for the purpose of beginning jury selection in  
6 a criminal case. The name of the case is the United States v. Dennis Cyrus, Jr. At this  
7 point I am going to introduce the parties and counsel. First, the government is represented  
8 by Assistant United States Attorneys William Frentzen and Robert Rees. Mr. Frentzen and  
9 Mr. Rees, please stand. Also present today with government's counsel is Brian Gilhooly,  
10 who likely will be assisting them during the trial. Next, Mr. Cyrus, please stand. Mr. Cyrus  
11 is represented by attorneys John Philipsborn and James Thomson. Mr. Phillipsborn and  
12 Mr. Thomson, please stand.

13       After I conclude these remarks, you will be asked to fill out a questionnaire, which  
14 the Court and the parties will use to try to expedite the jury selection process. That is the  
15 only purpose for which the information will be used. You are under oath here today and  
16 you are required to answer all of the questions truthfully, even if you might consider some  
17 of the information embarrassing or unnecessary. The Court and the parties are asking  
18 these questions so that we can fulfill the obligations of our justice system to obtain a jury  
19 that will be fair and impartial to both sides and which will properly follow the legal  
20 instructions that the Court will provide during the trial. Before you fill out the questionnaire,  
21 I want to discuss briefly the nature of this case with you.

22       As I noted earlier, the defendant charged in this case is Dennis Cyrus, Jr. I will  
23 briefly describe those charges in just a moment. I wish to stress in advance, however, that  
24 the charges are only allegations and are not evidence or proof against the defendant in any  
25 way. The defendant has pleaded not guilty to the charges. As we will discuss in more  
26 detail later in the case if you are selected to serve on the jury, the defendant is presumed to  
27 be innocent. That presumption of innocence remains with the defendant unless the  
28 government is able to prove his guilt of the crimes charged beyond a reasonable doubt.

1       The charges against the defendant generally include participating in a narcotics  
2 conspiracy, participating in a racketeering conspiracy, violent crimes in aid of racketeering,  
3 including murder and attempted murder, possession of crack cocaine with the intent to  
4 distribute, and firearms violations in connection with such charges. These crimes are  
5 alleged to be related to Mr. Cyrus's involvement with an alleged gang called the "Page  
6 Street Mob." Again, these are only the charges and nothing has been proved at this point.

7       Because Mr. Cyrus faces the possibility of a death sentence if he is convicted of one  
8 or more of the murder charges, this case is what is referred to as a capital case. I will  
9 explain to you how a capital case proceeds. Potentially this case has two stages. The first  
10 requires the jury to consider whether or not the government has proved the charges  
11 brought against the defendant, Mr. Cyrus, beyond a reasonable doubt. At this stage of the  
12 proceedings, the jury shall not consider any possible punishment that might be imposed.

13       If, at the conclusion of the first stage, the jury reports that it does not find the  
14 defendant, Mr. Cyrus, guilty of any of the capital charges, then the jury's responsibilities are  
15 at an end. This is so regardless of how the jury finds as to any other charges, because the  
16 court decides the punishment for non-capital crimes.

17       If the jury reports that it finds the defendant, Mr. Cyrus, guilty of any of the capital  
18 charges, then we will proceed to a second stage: a penalty stage, at which additional  
19 evidence is presented and the jury considers whether the sentence imposed should be  
20 death, or life without release or parole.

21       During the penalty stage, evidence will be presented relating to the crimes and/or  
22 the defendant himself that might suggest that the death penalty should or should not be  
23 imposed in this case. If the jury finds the government has made a sufficient showing to  
24 justify imposition of the death penalty, the jury may, but is not required, to find in favor of  
25 the death penalty.

26       I wish to repeat that the Court's comments regarding the law as to the death penalty,  
27 or as to any sentence, are not in any way intended to suggest the case will necessarily  
28 proceed to a penalty stage or that Mr. Cyrus is guilty of any of the offenses charged.

1 Rather, these remarks are intended only as an explanation as to the purpose of the  
2 questionnaire and the procedure you are to follow in completing it.

3 Further, because you are a potential juror in this case, I must instruct you that you  
4 are not to discuss this case, the selection process, or anything about the case, or your  
5 experience in this courtroom with anyone until you are either excused from the case or, if  
6 you are selected as a juror, until the case is completed. This admonition includes other  
7 jurors, friends, and family. We know that it is difficult not to talk about something you are  
8 involved in, but we must insist that you follow this admonition.

9 Finally, from time to time there is coverage of cases in this courtroom by the radio,  
10 newspapers, magazines, or television. I do not know if we will have anyone covering this  
11 case, but I must ask you to avoid any contact with the media and to avoid receiving any  
12 information about this case that does not come directly from testimony, evidence, or  
13 instructions given in this courtroom. A jury must decide a case based only on the evidence  
14 it receives in the trial. Mr. Cyrus and the government have a right to expect that. I am sure  
15 that if you were on trial, or involved in the case in any other way, you would expect that of  
16 jurors yourself. To further assure your privacy, your names will not be used during or after  
17 any of the proceedings in this case, or even disclosed to the attorneys or parties.

18 This concludes the Court's remarks and instructions at this time. Thank you very  
19 much for your attention.

20  
21 **IT IS SO ORDERED.**

22  
23 Dated: November 12, 2008

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MAXINE M. CHESNEY  
United States District Judge